

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff/Counter Defendant,

Case No. CV-12-3089-RMP

v.

KING MOUNTAIN TOBACCO CO.,  
INC.,

**STIPULATED MOTION TO  
MODIFY BENCH TRIAL  
SCHEDULING ORDER**

Defendant/Counter Claimant.

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The parties hereby respectfully request that the Court vacate the current trial date of September 15, 2014 and reset the trial date upon the Court's ruling on the United States' pending dispositive motion. The parties also request the Court to vacate all remaining pretrial deadlines.

In support of this motion, the parties state:

1. On April 7, 2014, the Court entered its Bench Trial Scheduling Order, (ECF No. 68). That order provides in part:

- (a) Trial date: September 15, 2014 in Yakima.
- (b) Deadline for dispositive motions: April 18, 2014.
- (c) Deadline for exhibit and witness lists: July 17, 2014.

- (d) Deadline for objecting to exhibit/witness lists: July 24, 2014.
- (e) Deadline for replying to objections to exhibit/witness lists: July 31, 2014.
- (f) Deadline for motions in limine: August 1, 2014.
- (g) Deadline for responses to motions in limine: August 8, 2014.
- (h) Deadline for replies to responses to motions in limine: August 15, 2014.
- (i) Deadline for pretrial order, trial briefs: August 21, 2014.

2. On April 18, 2014, the United States renewed its motion for summary judgment as to the issue that was reserved in the Court's Order Granting United States' Motion for Summary Judgment (ECF No. 62), the amount of federal tobacco excise taxes owed by King Mountain Tobacco Co., Inc.

3. In its response to that motion, King Mountain raised several defenses.

4. At the parties' request, the Court extended the briefing schedule on the renewed motion for summary judgment and set oral argument for July 30, 2014 in Yakima.

5. Until the Court hears argument and rules on the pending motion for summary judgment, the parties are unsure whether a trial will be necessary in this case and if so on what issues.

6. The current pretrial schedule would require the parties to prepare exhibit and witness lists and objections thereto before the July 30 hearing without knowing what issues, if any, will need to be tried. Additionally, before the Court is likely to rule on the pending motion, other deadlines would occur, which would

1 require the parties to take additional action that might prove unnecessary in light of  
2 the Court's ultimate ruling.

3 Wherefore, it is hereby stipulated and agreed by the parties that it would be  
4 in the interest of judicial economy to strike the pretrial deadlines and the trial date  
5 pending the Court's ruling on the United States' dispositive motion, with a new  
6 scheduling order to be issued if necessary after that ruling is made.

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8 DATED this 14th day of July, 2014.

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